



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

SMC

Docket No: 03322-99

1 December 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: LCDR [REDACTED] USNR ([REDACTED])
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 7May99 w/attachments
(2) PERS-311 memo dtd 24Aug99
(3) PERS-86 memo dtd 17Sep99
(4) PERS-86 memo dtd 30Nov00
(5) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing the original fitness reports for 27 November 1997 to 31 January 1998 and 1 February 1998 to 31 January 1999 and replacing them with one supplemental report, for 27 November 1997 to 31 October 1998. Copies of these three reports are at Tab A. Enclosure (2) shows that the Navy Personnel Command has corrected Petitioner's fitness report record as he requested. He also impliedly requested removing his failure of selection before the Fiscal Year (FY) 1999 Naval Reserve Lieutenant Commander Line Selection Board. He was promoted pursuant to selection by the FY 2000 Naval Reserve Lieutenant Commander Line Selection Board.

2. The Board, consisting of Messrs. McCulloch, Pfeiffer and Rothlein, reviewed Petitioner's allegations of error and injustice on 30 November 2000, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. The FY 1999 Naval Reserve Lieutenant Commander Line Selection Board convened on 1 June 1998. Petitioner's record before that promotion board included the contested

original fitness report for 27 November 1997 to 31 January 1998, which reflected a promotion recommendation of "Must Promote" (second best), but it did not include the other contested original report, the period of which did not end until 31 January 1999. His record before the FY 1999 promotion board did not and could not include the supplemental report, the period of which did not end until 31 October 1998. Had the reporting senior concerned submitted only the supplemental report, rather than the two original reports it has replaced, the FY 1999 promotion board would not have viewed any of the three reports.

c. PERS-86, the NPC office having cognizance over Naval Reserve promotions, has provided two advisory opinions in this case. The first, at enclosure (3), recommended against removing Petitioner's FY 1999 failure of selection on the erroneous basis that he had communicated with the promotion board and explained his case. In fact, he communicated with the FY 2000 promotion board before which he was successful. The second opinion, at enclosure (4), recommended that his failure of selection be removed because "any of the fitness reports corrected or wrongfully submitted should not have been part of [Petitioner's] record before the FY-99 Naval Reserve Lieutenant Commander Line Promotion Selection Board."

CONCLUSION:

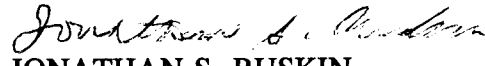
Upon review and consideration of all the evidence of record, and especially in light of the comments contained in enclosure (4), the Board finds the existence of an injustice warranting the following corrective action:

RECOMMENDATION:

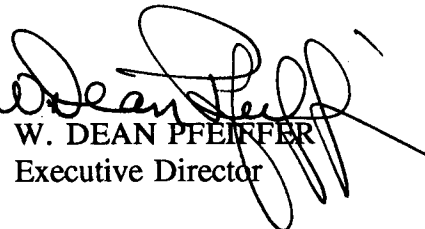
- a. That Petitioner's naval record be corrected to show he did not fail of selection by the FY 1999 Naval Reserve Lieutenant Commander Line Selection Board.
- b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.
- c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director

3322-99



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
PERS-311
24 August 1999

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: L [REDACTED] USNR (TA [REDACTED])

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness reports for the period 27 November 1997 to 31 January 1998 and 1 February 1998 to 31 January 1999 and replace them with a supplemental report included with the member's petition.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the reports in question to be on file. The reports are signed by the member acknowledging the contents of the reports and his right to submit a statement. The member did not desire to submit a statement.

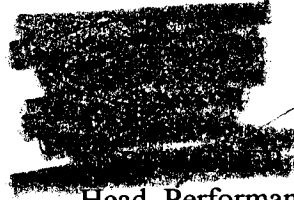
b. The reporting senior submitted a supplemental report because of erroneous summary grouping with regular USN personnel. In accordance with reference (a), Annex A, TAR personnel are to be in a separate summary group.

c. The fitness reports in question were filed in error. In view of the above, we have administratively removed the fitness reports from the member's record and substituted it with the copy provided with the member's petition.

d. The member proves the report to be in error.

3. We recommend the case be closed administratively.

4. We recommend the member's petition be forwarded to the Director, Active Officer Promotion, Appointments, and Enlisted Advancement Division (PERS-85) for comments on the member's failure to select.



Head, Performance
Evaluation Branch



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

3322-99
5420
PERS-86
17 Sep 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF
LIEUTENANT [REDACTED]

Ref: (a) BCNR memo PERS-OOZCB of 8 Sep 99

Encl: (1) BCNR File 03322-99 w/Service record

1. In response to reference (a), we are returning enclosure (1) with the following observations.

2. Lieutenant [REDACTED] requests replacement of two fitness reports because the designator listed on both is 1110 vice 1117. PERS-311 has effected the requested change.

3. Lieutenant [REDACTED] properly considered by the FY-99 Naval Reserve Lieutenant Commander Line Promotion Selection Board. He communicated with the selection board in writing. In his communication, Lieutenant [REDACTED] identified the error, and explained his case to the board. Lieutenant [REDACTED] was not selected for promotion.

4. Specific reasons for Lieutenant [REDACTED]'s non-selection are not available since board deliberations are sensitive in nature, and records of deliberations are not kept. We find that the corrections do not significantly improve Lieutenant [REDACTED]'s promotion potential, particularly in view of his communication to the board. It is our opinion that Lieutenant [REDACTED]'s record was simply not competitive enough when viewed within the numerical constraints placed on the board. Therefore, we find no basis to recommend removal of the failure to select.

5. Lieutenant [REDACTED]'s service to his country is laudable and he can be justifiably proud of his contributions; the negative response does not detract from his honorable service to this nation and the United States Navy.

[REDACTED SIGNATURE]
Director, Naval Reserve Officer
Promotion, Appointments and
Enlisted Advancements Division



DEPARTMENT OF THE NAVY

**NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000**

5420
PERS-86
30 Nov 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATION IN CASE OF
LIEUTENANT [REDACTED], USNR, [REDACTED]

Ref: (a) COMNAVPERSCOM (PERS-86) ltr dtd 17 SEP 89 *Jan*

Encl: (1) BCNR File 03322-99 w/Service Record

1. With regard to reference (a), we are returning enclosure (1) with the recommendation that Lieutenant [REDACTED] request for removal of his failure of select for FY-99 Naval Reserve Lieutenant Commander Line Promotion Selection Board be granted.
2. In our earlier response outlined in reference (a) we discussed the significance of the corrected fitness reports which should not have been viewed before the FY-99 Naval Reserve Lieutenant Commander Line Promotion Selection Board. In view of this fact, any of the fitness reports corrected or wrongfully submitted should not have been part of Lieutenant [REDACTED] record before the FY-99 Naval Reserve Lieutenant Commander Line Promotion Selection Board.

Director, Reserve Officer
Promotions, Appointments, and
Enlisted Advancement Division